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LOK SABHA

The following Report of the Select Committee on the Bill to further amend the Estate Duty Act, 1953, was presented to Lok Sabha on the 18th August, 1958:—

Composition of the Select Committee

1. Shri C. R. Pattabhi Raman- *Chairman*.
2. Shri Asoke K. Sen
3. Shri C. D. Pande
4. Shri M. Thirumala Rao
5. Shri Tribhuan Narayan Singh
6. Shri Mahavir Tyagi
7. Shri S. Ahmad Mehdi
8. Shrimati Uma Nehru
9. Shri Shivram Rango Rane
10. Sardar Iqbal Singh
11. *Dr. Y. S. Parmar
12. Shrimati Renuka Roy
13. Shri Liladhar Kotoki
14. Shri Jaganatha Rao
15. Shri Narendrabhai Nathwani
16. Shri Radheshyam Ramkumar Morarka
17. Shri Harish Chandra Mathur

*Ceased to be member of the Committee with effect from the 31st July, 1958 on the dismissal by the Judicial Commissioner of the appeal from the order of the Election Tribunal dated the 28th April, 1958 declaring his election to Lok Sabha void.

18. Shri Radhelal Vyas
19. Shri Vidya Charan Shukla
20. Shri N. G. Ranga
21. Shri M. Shankaralya
22. Shri Satyendra Narayan Sinha
23. Shri George Thomas Kottukapally
24. Shri A. M. Tariq
25. Shri Kamalnayan Jamnalal Bajaj
26. Shri B. R. Bhagat
27. Shri Mathura Prasad Mishra
28. Shri T. Sanganna
29. Shri S. R. Damani
30. Shri Rajeshwar Patel
31. Shri T. C. N. Menon
32. Shri Prabhat Kar
33. Shri R. K. Khadilkar
34. Shri Bimal Comar Ghose
35. Shri Arjun Singh Bhadauria
36. Shri M. R. Masani
37. H.H. Maharaja Sri Karni Singhji of Bikaner
38. Shri Premji R. Assar
39. Shri N. Siva Raj
40. H.H. Maharaja Pratap Keshari Deo
41. Shri Naushir Bharucha
42. Dr. A. Krishnaswami
43. Shri Morarji Desai

DRAFTSMAN

Shri G. R. Rajagopaul, *Additional Secretary and Chief
Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai, *Under Secretary.*

Report of the Select Committee

I, the Chairman of the Select Committee to which the Bill* further to amend the Estate Duty Act, 1953 was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 28th February, 1958. The motion for reference of the Bill to a Select Committee was moved by Shri Morarji Desai on the 24th April, discussed in the House on the 24th and 25th April, and adopted on the 25th April, 1958.

3. The Committee held 4 sittings in all.

4. The first sitting of the Committee was held on the 30th April, 1958 to draw up a programme of work.

5. The report of the Committee was to be presented by the 1st May, 1958. The Committee were granted extension of time on the 1st May, 1958 upto the 20th August, 1958.

6. Eight representations on the Bill were received by the Committee from different associations/individuals.

7. The Committee considered the Bill clause by clause at their sittings held on the 7th and 8th August, 1958.

8. The Committee considered and adopted the Report on the 13th August, 1958.

9. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

10. *Clause 1.*—The Committee consider that power should be taken to bring the amending Act into force on a suitable date so that the Act is brought into force after necessary resolutions under Article 252(2) of the Constitution are passed by the State Legislatures so as to enable the Act to be made applicable to agricultural land.

The clause has been amended accordingly.

*Published in Part II, Section 2 of the Gazette of India Extraordinary dated the 28th February 1958.

11. *Clause 2.*—The definition of ‘person accountable’ or ‘accountable person’ in this clause has been amended so as to bring it in line with the definition of “assessee” in the Indian Income-tax Act, 1922.

12. *Clause 4.*—The Committee have considered the proposed amendment in the Bill raising the period of chargeable gifts from two years to five years, but are of the view that the *status quo* should be maintained.

Sub-clause (a) of this clause and the original clauses 5, 6 and 7 of the Bill have, therefore, been omitted.

13. *Clause 12 (Original clause 16).*—In conformity with the provisions made in the Wealth-tax Act, 1957 and the Expenditure Tax Act, 1957 in respect of the ‘official residence’ of a Ruler, the Committee have added a new sub-clause (d) exempting the official residence of a Ruler from estate duty.

The other amendment in sub-clause (b) is consequential upon the amendment made in clause 4.

14. *Clause 13 (Original clause 17).*—The amendment made in this clause is of a consequential nature.

15. *New clause 15.*—This new clause rectifies a printing mistake in the principal Act.

16. *Clause 19 (Original clause 22).*—In cases where any property in respect of which gift tax has been paid is also included in the estate of a donor as property passing under the Estate Duty Act, the Committee are of the opinion that, instead of exempting such property from estate duty altogether as proposed in the Bill, the amount of estate duty payable may be reduced by a sum equal to the amount of the gift tax paid.

The clause has been amended accordingly.

17. *Clause 21 (Original clause 24).*—

(a) *Proposed section 57.*—The amendment made in this section is of a drafting nature.

(b) *Proposed section 59.*—The amendment in this section is clarificatory.

(c) *Proposed section 60.*—The amendment made in this section is of a drafting nature and is intended to secure uniformity in language with that employed in sections 53, 55, 56 and 59.

(d) *Proposed section 62.*—The amendment in this section provides for an appeal in respect of penalties which may be levied under the proposed section 72, or under section 46(1) of the Indian Income-tax Act, 1922 as applied to the levy of estate duty under the proposed section 73(5).

18. *Clause 23 (Original clause 26).*—The Committee consider that the number of instalments for payment of estate duty in respect of immovable property should not be reduced to *three* yearly or *six* half-yearly instalments as proposed in the Bill, but to *four* yearly or *eight* half-yearly instalments.

The clause has been amended accordingly.

19. *New clause 24.*—As the original section 56 of the principal Act is now being replaced, a consequential amendment is necessary in section 72. The Committee feel that the penalty leviable under section 72 may be expressed so as not to exceed rupees one thousand and that before any such penalty is levied the person concerned should be given an opportunity of being heard. This new clause provides for the necessary amendment in section 72 of the principal Act.

20. *Clause 26 (Original clause 28).*—The Committee consider that as in the Wealth Tax, Gift-Tax and Expenditure Tax Acts, a provision should be made authorising the appearance before estate duty authorities of persons who are neither legal practitioners nor accountants but possess such qualifications as may be prescribed.

The clause has been amended accordingly.

21. *Clause 28 (Original clause 30).*—The Committee have given careful consideration to the new rates of duty proposed in the Bill. They are of the view that in Part I of the proposed Second Schedule the rates in the second and third slabs should be reduced from 6 per cent and 8 per cent to 4 per cent and 6 per cent respectively.

The schedule has accordingly been amended.

22. *New clause 30.*—This new clause clarifies the legal position with regard to the application of the amending Act to estates which consist wholly or in part of agricultural land. This amending Act can be made applicable to agricultural land only after two or more State Legislatures have passed the necessary resolutions.

23. The recommendation of the President has been obtained under articles 117(1) and 274(1) of the Constitution in respect of the amendment made in clause 19 (original clause 22) and under article 274(1) in respect of the amendments made in clause 28 (original clause 30) of the Bill.

24. The Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 16th August, 1958.

C. R. PATTABHI RAMAN,
Chairman,
Select Committee.

Note

While I am in general agreement with the Estate Duty (Amendment) Bill 1958, as passed by the Select Committee, on the 13th August 1958, I feel that the question of exempting from estate duty the members of the Armed Forces and the Police killed on active service in performance of their duties while in uniform has not been fully appreciated.

There is considerable difference between an average death of a person and the death of a person in the Armed and Police Forces who is duty-bound to undertake any dangerous work in which he may be killed in the service of his Country. It would be only fair for the Government in such circumstances to exempt such people from estate duty.

NEW DELHI;
The 14th August, 1958.

KARNI SINGH.

Minutes of Dissent

I

While the Bill has undoubtedly improved materially as a result of scrutiny in the Select Committee, there is still one feature with which I regret I am unable to agree, and that is in regard to the bringing within the scope of the Bill of estates valued at between Rs. 50,000 and Rs. 1,00,000. An estate of just over Rs. 50,000 would in pre-World War II days have been worth around Rs. 12,000. One is a little appalled at the thought that an inheritance of this very modest nature, which would probably be divided between several heirs, should be brought within the scope of a tax of this nature. It is obvious that the burden of this lowering of the exemption limit from Rs. 1 lakh to Rs. 50,000 will fall on members of the lower middle class and that what is taxed will be the hard earned savings of a lifetime of the small man and amounts received by employees from Provident Funds and gratuity schemes. It is ironic in this context to recall that in Soviet Russia fortunes running into millions of roubles are inherited without the payment of any inheritance tax or estate duty.

I would once again urge consideration of the question whether the net return to Government in the way of revenues will not be outweighed by the harassment caused to small people in respect of small estates and the greater work and strain involved on the administrative machinery.

M. R. MASANI.

NEW DELHI;
The 14th August, 1958.

II

With the change in the rates, the Bill as it has emerged from the Select Committee will, we fear, very nearly defeat its purpose. Even with the exemption limit brought down to Rs. 50,000|-, we doubt if the revenues will be appreciably larger in view of the reduction in the rates effected by the Select Committee. We are not in favour of such reduction in rates. Nor will the amending Bill have any effect in ensuring a more egalitarian society in future. To that end, the rates on the higher slabs, say beyond Rs. 10 lakhs, should have been progressively stepped up. That has not been done. In fact, the rates, particularly on the higher slabs, are much higher in practically all other countries where death duties obtain. It should also be remembered that death duties have certain advantages over other forms of direct taxation. They are not markedly disincentive, they affect all forms of wealth equally and they should be able over a period, provided the rates are sufficiently progressive, substantially to break up existing large stores of wealth. In the circumstances, it is unfortunate we are not making a proper use of death duties.

We are also opposed to clause 18 under which one half of the court fees paid is to be deducted from the estate duty that may be payable. It is true that in the existing Act the whole of the Court fees paid can be so deducted. But obviously this was an illogical provision and should have been rectified now. The estate duty as such should have no relation to any other imposts that may be levied by either a State Government or the Central Government. What we should like to propose is that any court fees that may be paid may be wholly allowed as an exemption in calculating the estate of the deceased and the estate duty should be levied on the balance in accordance with the provisions of the law.

BIMAL COMAR GHOSE.
PRABHAT KAR.

NEW DELHI;
The 14th August, 1958.

III

I regret I cannot endorse clause 30 in the amending Bill wherein it is proposed that for the Second Schedule of the principal Act a new Schedule shall be substituted bringing down the first slab to Rs. 50,000 of the principal value of the estate. This first slab should have been retained, in my opinion, as it was in the original Act at the level of Rs. 1,00,000 of the principal value of the estate.

While imposing a new burden of taxation its economic and social consequences should be very carefully considered. The lowering down of the slab will bring into the purview of the Act mostly people in the so-called liberal professions such as Medical Men, Lawyers, men of the teaching profession, Journalists, Artists and others, as well as quite a large section of salaried persons, technicians and others. This comprises the so-called lower middle class and in the present changing pattern of social set-up in our country this class is made to bear inequitous burdens. This class has very little economic pull in society but a good deal of socio-ideological influence. None the less in a democratic development of society it plays a vital role and savings of people belonging to it mostly result from their retirement benefits, such as gratuity, provident fund and etc. As such it would be unjust to put additional burdens on this section of society.

Moreover, by lowering the slab to Rs. 50,000, my inquiries elicited, that Government could hardly recover Rs. 30,00,000 annually. It would, therefore, just provide a handle for harassment without substantial recoveries to the Government. The new Bill proposes to bring down the rates of duty in the Second Schedule in the second and third slabs from 6 and 8 per cent to 4 and 6 per cent. I would, therefore, urge that instead of reducing the rates on the second and third slabs to the new proposed levels they should be so adjusted as to compensate for the loss that would result by keeping the first slab at the old level of Rs. 1,00,000.

I earnestly hope every effort would be made before the Bill is finally adopted to incorporate my suggestions in the Bill.

R. K. KHADILKAR.

NEW DELHI;
The 14th August, 1958.
470 G. of I. (Ex.)—2.

IV

The Estate Duty (Amendment) Bill, as it has emerged out of the Select Committee, needs various changes.

In a period of rising prices and economic development, few persons will deny the need for supplementing the revenue of the State by making the estate duty stiffer. When the country has accepted the socialistic pattern of society and have in view the equalisation of wealth, the necessity of such a Bill is imperative.

But, in reality, in a society where social security is almost unknown and where traditional and family ties act as an informal system of social security, it is unfair and unwise to ignore the Hindu joint family system and not to recognise the distinction between coparcenary property and property of any other kind. Though Income-tax Act and similar legislations of the Government have so far recognised the age-old Hindu joint family system, for the first time a step is being taken here to ignore this traditional institution so deep-rooted in this country.

With the reduction of exemption limit from Rs. 1,00,000/- to Rs. 50,000/- larger number of estates will be assessable, but it will mostly involve the middle class. In these days of inflated currency, Rs. 50,000/- is not a big sum. A person with a moderate income can easily acquire an estate of Rs. 50,000/- at the fag end of his career out of his hard earnings and his estate will automatically come within the mischief of this Bill. The revenue anticipated from this source can be easily collected by raising the rate of estate duty at the higher slabs. I suggest that the exemption limit for the purposes of estate duty may be fixed at Rs. 1,00,000/- and if necessary, rates of estate duty for estates of the principal value of Rs. 10,00,000/- and above may be increased.

Regarding the number of instalments for payment of estate duty in the case of immovable property, I do not agree that it should be reduced to four yearly or eight half-yearly instalments, as against eight yearly or sixteen half-yearly instalments of the original Act, as liquid cash in most of the cases may not be available with the assessee or the assessee may not get full price by selling his property. Being compelled to dispose of the property in a haste, the assessee will have to sell it for a bargain only. I think eight yearly or sixteen half-yearly instalments of the original Act need not be changed in the case of payment of estate duty for immovable property.

P. K. DEO.

NEW DELHI;
The 14th August, 1958.

V

Many issues arising in the Estate Duty (Amendment) Bill were fully discussed and have satisfactorily been solved.

The original Act contained Rs. one lakh as the basic figure over which the duty would be levied. In the amending Bill this basic figure is reduced to Rs. 50,000 as liable for duty. Though it might be stated that by bringing down the figure to Rs. 50,000 the duty has been broad-based, yet I feel it will not bring the desired results. Many middle-class men will be brought under the scope and their harassment might follow. It would rather be difficult for the authorities also to decide 'border cases' which will number more, without some sense of injustice and harassment amongst the assesseees. The actual income which is expected to be realised would be disproportionate in relation to the expenditure, time involved in deciding cases, and the harassment to the middle class men. Instead, the expected income can also be realised by raising the percentage of duty on the higher slabs.

It is, therefore, requested that the original Rs. 1 lakh be retained in the amending Bill instead of Rs. 50,000.

NEW DELHI;

P. R. ASSAR.

The 14th August, 1958.

Bill No. 18-A of 1958**THE ESTATE DUTY (AMENDMENT) BILL, 1958**

(AS AMENDED BY THE SELECT COMMITTEE)

[Words underlined or side-lined indicate the amendments suggested by the Committee; asterisks indicate omissions]

A

BILL

further to amend the Estate Duty Act, 1953.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Estate Duty (Amendment) Act, 1958.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 2.

2. In section 2 of the Estate Duty Act, 1953 (hereinafter referred to as the principal Act),—

(a) after clause (1), the following clauses shall be inserted, namely:—

‘(1A) “Appellate Controller” means a person appointed to be an Appellate Controller of Estate Duty under section 4;

(1B) “Appellate Tribunal” means the Appellate Tribunal appointed under section 5A of the Indian Income-tax Act, 1922;’

(b) after clause (12), the following clause shall be inserted, namely:—

‘(12A) “person accountable” or “accountable person” means the person accountable for estate duty within the meaning of this

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4 of 1953

1 of 1922.

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Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of the principal value of the estate of the deceased;—

(c) after clause (14), the following clause shall be inserted, namely:—

“(14A) “principal officer”, in relation to a company or a corporation established by a Central, State or Provincial Act, means the manager, managing director, managing agent or secretary, and includes any person connected with the management of the company or corporation upon whom the Controller has served a notice of his intention of treating him as the principal officer for the purposes of this Act;”.

3. In section 4 of the principal Act,—

Amendment
of section

(a) in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

“(bb) Appellate Controllers of Estate Duty;”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Central Government may appoint as many Appellate Controllers of Estate Duty as it thinks fit and they shall, subject to the control of the Board, perform their functions in respect of such estates or classes of estates or such areas as the Board may direct, and where such directions have assigned to two or more Appellate Controllers the same estate or classes of estates or the same area, they shall perform their functions in accordance with any orders which the Board may make for the distribution and allocation of the work to be performed.”;

(c) to sub-section (5), the following proviso shall be added, namely:—

“Provided that no such orders, instructions or directions shall be given by the Board so as to interfere with the discretion of the Appellate Controller of Estate Duty in the exercise of his appellate functions.”.

4. In section 9 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment
of section

“(2) The provisions of sub-section (1) shall not apply to—

(a) gifts made in consideration of marriage, subject to a maximum of rupees ten thousand in value;

(b) gifts which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased, subject to a maximum of rupees ten thousand in value.”.

* * * * *

Amendment
of section
16.

5. In section 16 of the principal Act, in clause (a) of sub-section (2), for the words “otherwise than for full consideration”, the words “notwithstanding that the disposition was made for full consideration” shall be substituted.

Amendment
of section
17.

6. In section 17 of the principal Act, in clause (vi) of sub-section (4), for the word “even”, the word “event” shall be substituted.

Amendment
of section
18.

7. In section 18 of the principal Act, the *Explanation* shall be omitted.

Amendment
of section
19.

8. In section 19 of the principal Act,—

(a) in sub-section (2), for the words “outside the territories to which this Act extends”, the words “outside India” shall be substituted;

(b) in sub-section (4), for the words and figures “section 230 of the Indian Companies Act, 1913 (VII of 1913)” and “section 129 of the Indian Companies Act, 1913,”, the following words and figures shall respectively be substituted, namely:—

“section 530 of the Companies Act, 1956” and “section 123 of the Companies Act, 1956.”

1 of 1956.
1 of 1956.

Insertion of
new section
20A.

9. In Part II, after section 20 of the principal Act, the following section shall be inserted, namely:—

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Duty and
liability of
companies
incorporated
outside
India in
certain
cases.

“20A. Where a company incorporated outside India which carries on business in India has been treated for the purposes of the Indian Income-tax Act, 1922, as resident for two out of the three completed assessments for the years immediately preceding the date of death of any member of or debenture holder in the company, the company shall, within three months of the receipt of intimation of the death of the member or debenture holder, as the case may be, furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the company, and the company shall be accountable for the estate duty which shall be levied at the rates mentioned in Part II of the Second Schedule on the principal value of the shares or debentures held by the deceased in the company except in cases where the deceased was a person domiciled in India and the person accountable under any of the other provisions of this Act has obtained a certificate from the

11 of 1922.

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Controller showing that either the estate duty in respect thereof has been paid or will be paid or that none is due, as the case may be."

10. In section 21 of the principal Act, in sub-section (1), for the words "outside the territories to which this Act extends" and "the said territories", wherever they occur, the words "outside India" and "India" shall respectively be substituted. Amendment of section 21.

11. In section 27 of the principal Act, for the word and figure "section 9" in both the places where they occur, the words "this Act" shall be substituted. Amendment of section 27.

12. In section 33 of the principal Act, in sub-section (1),— Amendment of section 33.

(a) in clause (a), for the words "under a gift", the words "under one or more gifts" shall be substituted;

(b) in clause (b), for the words "under a gift", * * * the words "under one or more gifts" * * * shall be substituted;

(c) in clause (k), for the words "rupees five thousand", the words "rupees ten thousand" shall be substituted;

(d) after clause (k), the following clause shall be inserted, namely:—

"(l) any one building in the occupation of a Ruler declared by the Central Government as his official residence under Paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or Paragraph 15 of the Part B States (Taxation Concessions) Order, 1950."

13. For section 34 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 34.

"34. (1) For the purpose of determining the estate duty to be paid on any property passing on the death of the deceased,— Aggregation

(a) all property so passing other than property exempted from estate duty under clauses (c), (d), (e), (i), (j) and (l) of sub-section (1) of section 33;

(b) agricultural land so passing, if any, situate in any State not specified in the First Schedule; and

(c) in the case of property so passing which consists of a coparcenary interest in the joint family property of a Hindu family governed by the *Mitakshara*, *Marumakkattayam* or *Aliyasantana* law, also the interests in the joint family property of all the lineal descendants of the deceased member;

shall be aggregated so as to form one estate and estate duty shall be levied thereon at the rate or rates applicable in respect of the principal value thereof.

(2) Where any such estate as is referred to in sub-section (1) includes any property exempt from estate duty, the estate duty leviable on the property not so exempt shall be an amount bearing to the total amount of duty which would have been payable on the whole estate had no part of it been so exempt, the same proportion as the value of the property not so exempt bears to the value of the whole estate. 5. 10

Explanation.—For the purposes of this sub-section, “property exempt from estate duty” means—

(i) any property which is exempt from estate duty under section 33;

(ii) any agricultural land situate in any State not specified in the First Schedule; 15

(iii) the interests of all coparceners other than the deceased in the joint family property of a Hindu family governed by the *Mitakshara*, *Marumakkattayam* or *Aliyasantana* law. 20

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), any property passing in which the deceased never had an interest, not being a right or debt or benefit that is treated as property by virtue of the *Explanations* to clause (15) of section 2, shall not be aggregated with any property, but shall be an estate by itself, and the estate duty shall be levied at the rate or rates applicable in respect of the principal value thereof. 25

(4) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased. 30

(5) For the purposes of this section, no property shall be aggregated more than once nor shall estate duty in respect thereof be levied more than once on the same death.”

14. In section 35 of the principal Act,—

Amendment
of section
35.

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(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The rates of estate duty shall be as mentioned in the Second Schedule.”;

(b) sub-section (2) shall be omitted

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15. In section 46 of the principal Act, in sub-section (2), for the figures "25", the figures "26" shall be substituted. Amendment of section 46.

16. In section 47 of the principal Act, for the words "out of the territories to which this Act extends" and the words "the said territories" wherever they occur, the words "out of India" and "India" shall respectively be substituted. Amendment of section 47.

17. In section 48 of the principal Act, for the words "out of the territories to which this Act extends", the words "out of India" shall be substituted. Amendment of section 48.

18. In section 50 of the principal Act, for the words "an amount which is equal to", the words "an amount which is equal to one-half of" shall be substituted. Amendment of section 50.

19. In Part VI, after section 50 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 50A.

18 of 1958. 15

"50A. Where tax has been paid under the Gift-tax Act, 1958, in respect of a gift of any property and the property is also included in the estate of the donor as property passing under this Act, then, notwithstanding anything contained in this Act, the estate duty payable under this Act shall be reduced by an amount equal to the amount of gift-tax paid in respect of any such property under that Act." Relief from estate duty - where gift-tax has been paid.

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20. In section 53 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment of section 53.

25 "(3) Every person accountable for estate duty under this section shall, within six months of the death of the deceased, deliver to the Controller an account in the prescribed form and verified in the prescribed manner of all the properties in respect of which estate duty is payable:

30 Provided that the Controller may extend the period of six months aforesaid on such terms which may include payment of interest as may be prescribed."

21. For sections 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections for sections 56 to 65.

35 "56. (1) In all cases in which a grant of representation is applied for— Grant of representation, etc. not to be made unless particulars are furnished to the Controller.

(a) the executor of the deceased shall, to the best of his knowledge and belief, specify in an appropriate account annexed to the affidavit of valuation filed in court under section 19-I of the Court-fees Act, 1870, all the property in

respect of which estate duty is payable upon the death of the deceased and shall deliver a copy of the affidavit with the account to the Controller, and

(b) no order entitling the applicant to the grant of representation shall be made upon his application until he has delivered the account prescribed in clause (a) and has produced a certificate from the Controller under sub-section (2) of section 57 or section 67 that the estate duty payable in respect of the property included in the account has been or will be paid, or that none is due, as the case may be. 5 10

(2) In all cases in which a grant of a succession certificate is applied for, a copy of the application shall be furnished by the applicant to the Controller and no order entitling the applicant to the grant of such a certificate shall be made upon his application until he has produced a certificate from the Controller under sub-section (2) of section 57 or section 67 that the estate duty payable in respect of the property mentioned in the application has been or will be paid, or that none is due, as the case may be. 15

Power to make provisional assessment in advance of regular assessment.

57. (1) Estate Duty shall be due from the date of the death of the deceased, and the Controller may, at any time after the receipt of account delivered under section 53 or section 56, proceed to make in a summary manner a provisional assessment of the estate duty payable by the person delivering the account on the basis of the account so delivered. 25

(2) Upon a provisional assessment being made under sub-section (1), the person so assessed shall pay to the Controller, or furnish security to the satisfaction of the Controller for the payment of, the estate duty, if any, payable on the provisional assessment,* * * * and the Controller shall thereupon grant him a certificate that such duty has been or will be paid or that none is due, as the case may be, in respect of the property mentioned in the certificate. 30

(3) After regular assessment has been made under section 58 any amount paid towards the provisional assessment made under sub-section (1) shall be deemed to have been paid towards the regular assessment. 35

(4) No appeal shall lie against a provisional assessment made under sub-section (1), but nothing done or suffered by reason or

in consequence of any such provisional assessment shall prejudice the determination on the merits of any issue which may arise in the course of the regular assessment under section 58.

58. (1) If the Controller is satisfied without requiring the presence of the person accountable that an account delivered under section 53 or section 56 is correct and complete, he shall assess the principal value of the estate of the deceased, and shall determine the amount payable as estate duty.

(2) If the Controller is not so satisfied, he shall serve a notice on the person accountable, either to attend in person at his office on a date to be specified in the notice, or to produce, or cause to be produced on that date, any evidence on which the person accountable may rely in support of his account.

(3) The Controller, after hearing such evidence as the person accountable may produce and such other evidence as he may require on any specified points, shall, by order in writing, assess the principal value of the estate of the deceased and determine the amount payable as estate duty.

(4) In any case where no account has been delivered as required by section 53 or section 56, or the person accountable fails to comply with the terms of the notice served under sub-section (2), the Controller shall make the assessment to the best of his judgment and determine the amount payable as estate duty.

59. If the Controller,—

(a) has reason to believe that by reason of the omission or failure on the part of the person accountable to submit an account of the estate of the deceased under section 53 or section 56 or to disclose fully and truly all material facts necessary for assessment, any property chargeable to estate duty has escaped assessment by reason of under-valuation of the property included in the account or of omission to include therein any property which ought to have been included or of assessment at too low a rate or otherwise, or

Property
escaping
assessment.

(b) has, in consequence of any information in his possession, reason to believe notwithstanding that there has not been such omission or failure as is referred to in clause (a) that any property chargeable to estate duty has escaped assessment, whether by reason of under-valuation of the property included in the account or of omission to include

therein any property which ought to have been included, or of assessment at too low a rate or otherwise,

he may at any time, subject to the provisions of section 73A, require the person accountable to submit an account as required under section 53 and may proceed to assess or re-assess such property as if the provisions of section 58 applied thereto. 5

Penalty for
default or
conceal-
ment.

60. (1) If the Controller, the Appellate Controller or the Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

(a) has without reasonable cause failed to deliver the account of the property of the deceased under section 53 or section 56 or to comply with any requisition of the Controller under section 55 or section 59 or has without reasonable cause failed to deliver or submit any of the accounts or statements required under any of the sections aforesaid within the time allowed and in the manner required; or 15

(b) has without reasonable cause failed to comply with a notice under sub-section (2) of section 58; or

(c) has concealed the particulars of the property of the deceased or deliberately furnished inaccurate particulars thereof; or 20

(d) being a company referred to in section 20A, fails without reasonable cause, to pay the amount of estate duty due from the company under that section within the time specified in this behalf; 25

he or it may, by order in writing, direct that—

such person shall pay by way of penalty—

(i) in the case referred to in clause (a) or clause (d), in addition to the amount of the estate duty payable by him, a sum of rupees one thousand or a sum equal to double the amount of such duty, whichever is greater; and 30

(ii) in the case referred to in clause (b) or clause (c), in addition to the amount of estate duty payable by him, a sum equal to double the amount of the estate duty, if any, which would have been avoided if the principal value shown in the account of such person had been accepted as correct. 35

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

5 61. At any time within five years from the date of any order passed by him or it, the Controller, the Appellate Controller or the Appellate Tribunal may, on his or its own motion rectify any mistake apparent from the record and shall, within a like period rectify any such mistake which has been brought to the notice of the Controller, the Appellate Controller or the Appellate Tribunal, as the case may be, by the person accountable: Rectification of mistakes.

10 Provided that no such rectification shall be made which has the effect of enhancing the estate duty payable unless the person accountable has been given a reasonable opportunity of being heard in the matter.

15 62. (1) Any person—

(a) objecting—

(i) to any valuation made by the Controller, or

(ii) to any order made by the Controller determining the estate duty payable under section 58 or section 59, or

20 (iii) to any penalty levied by the Controller under section 60, section 72 or section 84, or

(iv) to any penalty imposed by the Controller under sub-section (1) of section 46 of the Indian Income-tax Act, 1922, as applied under sub-section (5) of section 73 for the purposes of estate duty, or

11 of 1922.

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(b) denying his liability to the amount of estate duty payable in respect of any property,

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may, within thirty days of the date of the receipt of the notice of demand under section 73, appeal to the Appellate Controller in the prescribed form which shall be verified in the prescribed manner:

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Provided that no appeal shall lie under sub-clause (iv) of clause (a) unless the duty has been paid before the appeal is filed.

(2) The Appellate Controller may admit an appeal after the expiry of the thirty days referred to in sub-section (1) if he is satisfied that there was sufficient cause for not presenting it within that period.

Appeal
against
orders of
Controller.

(3) The Appellate Controller shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Controller may—

(a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Controller. 10

(5) In disposing of an appeal, the Appellate Controller may pass such order as he thinks fit which may include an order enhancing the estate duty or penalty :

Provided that no order enhancing the estate duty payable or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement. 15

(6) The Appellate Controller shall, on the conclusion of the appeal, communicate the order passed by him to the appellant and to the Controller. 20

Appeal to the Appellate Tribunal from the order of the Appellate Controller.

63. (1) Any person accountable objecting to any order passed by an Appellate Controller under section 62, may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order.

(2) The Controller may, if he is not satisfied as to the correctness of any order passed by the Appellate Controller under section 62, appeal to the Appellate Tribunal against such order and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Controller. 25 30

(3) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal under sub-section (2), be accompanied by a fee of rupees one hundred. 35

(5) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the estate duty payable or penalty:

5 Provided that no order enhancing the estate duty payable or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

10 (6) Where the appellant objects to the valuation of any property, the Appellate Tribunal may, and if the appellant so requires, shall, refer the question of disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Tribunal shall, so far as that question is concerned, pass its orders under
15 sub-section (5) conformably to the decision of the valuers:

20 Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section (6) shall be borne by the Central Government or the person accountable, as the case may be, at whose instance the question was referred to the valuers:

25 Provided that where the person accountable has been wholly or partially successful in any reference made at his instance, the extent to which the costs shall be borne by him shall be at the discretion of the Appellate Tribunal.

30 (8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6), hold or cause to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such orders to the Appellate Tribunal.

35 (9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the person accountable and to the Controller.

(10) Save as provided in section 64 any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Indian Income-tax Act, 1922, shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under that Act.

II of 1922.

5

Reference
to the High
Court.

64. (1) Within ninety days of the date upon which he is served with an order under section 63, the person accountable or the Controller may present an application in the prescribed form and, where the application is by the person accountable, accompanied by a fee of one hundred rupees to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Appellate Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If, on an application made under sub-section (1), the Appellate Tribunal,—

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(a) refuses to state a case on the ground that no question of law arises; or

(b) rejects it on the ground that it is time-barred; the applicant may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

30

Provided that, if in any case where the Appellate Tribunal has been required by a person accountable to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the person accountable may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw the application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

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(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised

thereby, it may require the Appellate Tribunal to make such modifications therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised thereby, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the ground on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, over-paid as estate duty shall be refunded with such interest as the Controller may allow unless the High Court, on intimation being given by the Controller within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Controller to postpone payment of such refund until the disposal of the appeal in the Supreme Court.

(8) The costs of any reference to the High Court shall be in the discretion of the High Court.

9 of 1908.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court under this section.

(10) When a case has been stated to the High Court under this section, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges:

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

65. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 64 in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the

order of the Supreme Court in the manner provided in sub-section (6) of section 64.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court." 5

Substitution of new section for section 67. 22. For section 67 of the principal Act, the following section shall be substituted, namely:—

Certificate of payment of estate duty.

"67. Where the amount of estate duty determined by the Controller as payable on an assessment made under section 58 has been paid by the person accountable, the Controller shall, on application by that person, grant to him a certificate to that effect." 10

Amendment of section 70.

23. In section 70 of the principal Act, in sub-section (2), for the words "eight" and "sixteen", the words "four" and "eight" shall respectively be substituted. 15

Amendment of section 72.

24. In section 72 of the principal Act, for the words and figures "shall be liable to the penalty mentioned in section 56", the following shall be substituted, namely:—

"shall be liable to pay by way of penalty a sum not exceeding rupees one thousand: provided that no penalty shall be imposed under this section unless the person concerned has been given a reasonable opportunity of being heard." 20

Substitution of new sections for section 73.

25. For section 73 of the principal Act, the following sections shall be substituted, namely:— 25

Notice of demand and recovery of duty, penalty, etc.

"73. (1) When any estate duty, penalty or interest is due in consequence of any order passed under this Act, the Controller shall serve upon the person accountable or other person liable to pay such duty, penalty or interest a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable. 30

(2) Any amount specified as payable in a notice of demand issued under sub-section (1) shall be paid within the time, at the place and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the date of service of the notice and any person accountable failing so to pay shall be deemed to be in default. 35

(3) Where a person accountable has been assessed in respect of assets located in a country outside India, the laws of which prohibit or restrict the remittance of money to India, the Controller shall not treat the person accountable as in default in respect of that part of the estate duty which is attributable to the assets in that country, and shall continue to treat the person accountable as not in default in respect of that part of the duty until the prohibition or restriction of remittance is removed.

(4) Notwithstanding anything contained in this section, where the person accountable has presented an appeal under section 62 the Controller may in his discretion treat the person accountable as not being in default as long as such appeal has not been disposed of.

11 of 1922 (5) The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A), (6) and (7) of section 46 and section 47 of the Indian Income-tax Act, 1922, shall apply as if the said provisions were provisions of this Act and referred to estate duty (including estate duty provisionally assessed) and sums imposed by way of penalty or interest under this Act instead of to income-tax and sums imposed by way of penalty or interest under that Act and to Controller of Estate Duty instead of to Income-tax Officer.

73A. No proceedings for the levy of any estate duty under this Act shall be commenced—

(a) in the case of a first assessment, after the expiration of five years from the date of death of the deceased in respect of whose property estate duty became payable; and

(b) in the case of a re-assessment, after the expiration of three years from the date of assessment of such property to estate duty under this Act.”.

26. In section 83 of the principal Act,—

(a) after the words “legal practitioner or a chartered accountant”, the words “or any other person having such qualifications as may be prescribed” shall be inserted; and

(b) for clause (b) of the *Explanation*, the following clause shall be substituted, namely:—

‘(b) “legal practitioner” means an advocate, vakil or attorney of any High Court, and includes a pleader in practice.’.

Limitation
for com-
mencing
proceedings
for assess-
ment or re
assessment.

Amendment
of section
83.

Substitution
of new sec-
tion for
section 84.
Companies
to furnish
particulars
of deceased
persons to
the Con-
troller.

27. For section 84 of the principal Act, the following section shall be substituted, namely:—

"84. (1) Where a company within the meaning of the Companies Act, 1956, has knowledge through any of its principal officers of the death of any member of or debenture-holder in the company, it shall within three months of receipt of intimation of the death, furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the company; and it shall not be lawful for the company to register the transfer of any shares or debentures standing in the name of the deceased unless the transferee has acquired such shares or debentures for valuable consideration or a certificate from the Controller is produced before the company to the effect that the estate duty in respect of such shares or debentures has been paid or will be paid or that none is due, as the case may be.

1 of 1956.

(2) Where a corporation established by a Central, State or Provincial Act has knowledge through any of its principal officers of the death of any person who is a registered holder of stocks, shares or other securities in the corporation, it shall, within three months of the receipt of intimation of the death furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the corporation.

(3) Any company or corporation which without reasonable cause fails to comply with the provisions of this section shall be liable to pay a penalty of rupees one thousand."

Amendment
of the
Second
Schedule.

28. In the principal Act, for the Second Schedule, the following Schedule shall be substituted, namely:—

"THE SECOND SCHEDULE

(See sections 5, 20A and 35)

RATES OF ESTATE DUTY

PART I

In the case of any property which passes or is deemed to pass on the death of the deceased—

	<i>Rate of Duty</i>	
(1) On the first Rs. 50,000 of the principal value of the estate	.. Nil	35
(2) On the next Rs. 50,000 of the principal value of the estate	.. 4 per cent.	

	(3) On the next Rs. 50,000 of the principal value of the estate	.. 6 per cent.
	(4) On the next Rs. 50,000 of the principal value of the estate	.. 10 per cent.
5	(5) On the next Rs. 1,00,000 of the principal value of the estate	.. 12 per cent.
	(6) On the next Rs. 2,00,000 of the principal value of the estate	.. 15 per cent.
10	(7) On the next Rs. 5,00,000 of the principal value of the estate	.. 20 per cent.
	(8) On the next Rs. 10,00,000 of the principal value of the estate	.. 25 per cent.
	(9) On the next Rs. 10,00,000 of the principal value of the estate	.. 30 per cent.
15	(10) On the next Rs. 20,00,000 of the principal value of the estate	.. 35 per cent.
	(11) On the balance of the principal value of the estate	.. 40 per cent.

PART II

20 In the case of shares or debentures held by the deceased in any such company as is referred to in section 20A—

		<i>Rate of Duty</i>
25	(1) If the principal value of the shares or debentures does not exceed Rs. 5,000	<i>Nil.</i>
	(2) If the principal value of the shares or debentures exceeds Rs. 5,000	.. 7½ per cent."

29. Nothing contained in section 21 shall affect—

Savings

30 (a) any appeal pending before the Board in respect of any order made by the Controller before the commencement of this Act; or

(b) any right or remedy by way of appeal which has accrued to any person in respect of any order made by the Controller before such commencement;

35 and any such appeal may be disposed of and further proceedings taken in relation thereto and any such right or remedy may be enforced as if this Act had not been passed.

Act not to
apply to
agricultural
land.

30. For the removal of doubts it is hereby declared that nothing contained in this Act shall have effect in respect of any matter enumerated in entry 48 of List II in the Seventh Schedule to the Constitution, and estate duty in respect of any estate which consists wholly or in part of agricultural land situate in the territories which immediately before the 1st day of November, 1956, were comprised in the States specified in the First Schedule to the principal Act shall continue to be governed by the principal Act as if this Act had not been passed.

M. N. KAUL,
Secretary.

